REMARKS

Claims 1-5, 24, 32, 34, 45, 48, 60, 81, 92, 100, 123, 138, 146, 158, 167, 168, 169, 199, 215, 225, 235, 251, 266, 276, 285 and 301 are pending in the Application.

Claims 1-5, 24, 32, 34, 45, 48, 60, 81, 92, 100, 123, 138, 146, 158, 167, 168, 169, 199, 215, 225, 235, 251, 266, 276, 285 and 301 have been rejected.

New claim 337 is added.

Claim Rejections 35 USC 103

Claims 1-5, 24, 32, 34, 45, 48, 60, 81, 92, 100, 123, 138, 146, 158, 167, 168, 169, 199, 215, 225, 235, 251, 266, 276, 285 and 301 are rejected under 35 USC 103 as being unpatentable over Burchetta et al (US Patent 6,330,551) in view of Crawford et al. (US Patent 6,502,113).

All the claims are rejected based on a restatement of the previous rejection. Specifically the Examiner finds that "configured to" language is optional and is not structurally limiting. Thus although the Examiner agrees that all there is in common between Burchetta and the present application is that they both resolve disputes, he gives no patentable weight to the "configured for" clauses.

Specifically the Examiner finds that "the mere configuration of a device or structure does not merit patentable weight".

With all due respect, this is an astonishing finding. Is the Examiner aware that thousands upon thousands of patents have been granted with "configured to" language limiting their claims and that such patents have been upheld in the courts without comment?

The Examiner recites the MPEP and particularly MPEP 2106 IIC, which does indeed state that claimed features introduced by *optional* language should be ignored since they can be ignored without failing to infringe the claim. However this is *not the case* with the "configured to" language, since configured to is the same as "structured to". In the normal usage of the term "configured for" the skilled person *would* understand a *structural* limitation.

The Oxford English Dictionary, Concise Edition, defines "configured" as meaning "an arrangement of parts or elements in a particular form or figure.

Such a definition includes *not a hint* of *anything* optional.

The Merriam Webster dictionary contains the following entry for configure:

configure

One entry found.

Main Entry:
con·fig·ure
Pronunciation:
\kən-□fi-gyər, *especially British* -□fi-gər\
Function:
transitive verb
Inflected Form(s):
con·fig·ured; con·fig·ur·ing
Date:
1677
: to set up for operation especially in a particular way <a fighter plane *configured* for the Malaysian air force>

There is no indication in this definition of any kind of option.

Thus a person asking for a fork *configured for garden use* would *not* expect to receive the same thing as a person asking for a *fork configured for eating.*

The reason for this expectation is that the user of the term "configured" knows that the configuration is a limitation on the structure and does *not* introduce *any* kind of option. The MPEP both in 2106C and in 2111.04 gives a non-exhaustive list of terms which might introduce an option, such as "adapted for", "whereby" or "wherein" clauses. While it is true that the list is non-exhaustive, the MPEP further points out that the duty of the Examiner is to consider the grammar and intended meaning of terms used in the claim.

"Configured for" is the equivalent of "structured for".

The following is a quote from the MPEP 2106C

> "The subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the *grammar and intended meaning* of terms used in a claim *will dictate* whether the language limits the claim scope. Language that suggests or makes optional but does not *require* steps to be performed *or does not limit a claim to a particular structure* does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:
>
> (A) statements of intended use or field of use,
>
> (B) "adapted to" or "adapted for" clauses,

(C) "wherein" clauses, or

(D) "whereby" clauses.

This list of examples is not intended to be exhaustive. See also MPEP § **2111.04**."

The duty of the Patent Office is to interpret claims in their broadest reasonable fashion, *consistent with the court's interpretations*. In order to make a determination as to the broadest reasonable interpretation the Examiner *must* take into account *jurisprudence* on the subject, and *all* the jurisprudence to date accepts "configured" language as meaning a structural limitation. This is the reason why "configured" language is not listed in MPEP 2106C or 2111.04.

Applicant therefore believes that the Examiner is required to give these structural limitations, indicated by "configured to" their correct and lawful patentable weight.

Incidentally, the Examiner is provided with the following statistic regarding granted US Patents having the word "configured" in the claims.

Of US patents granted and included in the Delphion database, meaning all 4,541,885 US Patents granted since the early 1970s, no less than 435,675 had the term configured appearing at least once in the claims.

That is to say approximately 10% of patents use the term "configured". If the Examiner is correct then 10% of US patents were wrongly granted.

Taking into account these structural limitations the present claims are clearly distinguished from the prior art for the reasons given in the previous response, which are repeated here for the Examiner's convenience.

Burchetta teaches a computerized system for solving disputes, for example between an insurer and a claimant. The system processes a series of offers and a series of demands. If a first offer nearly matches a first demand the dispute is considered to be settled. If not then the parties are asked for a second offer and a second demand.

In Burchetta each party's negotiating position is thus represented by a *single* number at any given time. Thus Burchetta is confined to a single dimension (money) in a trivial way. In Burchetta there are no goal programs within the meaning of claim 1, because claim 1 defines a goal program as:

"comprising at least one objective function, having at least one goal expressed by at least one constraint comprising at least one of a deviation variable, a decision variable and a target value, said deviation variable being usable to form said objective function,"

By definition therefore the goal program of claim 1 cannot consist of just a single number as per Burchetta.

Crawford et al is a system for negotiation by commonly editing a document which is supposed to become an agreement. One party drafts the document as a series of clauses, and then it is sent to the second party to edit. It is then sent back to the first party, until a mutually agreed document is arrived at. Just as a general comment it seems that Crawford's independent claims would be anticipated if the two parties were to utilize the track changes feature of Microsoft Word™.

Examiner rejects claim 1 over Burchetta in view of Crawford.

Applicant first of all submits that contrary to the Examiner's finding, Burchetta fails to teach the goal program of claim 1, because Burchetta's negotiating position consists of only a single number at any given time. The passage pointed to by the Examiner, (column 4 line 47) seems to imply that the three rounds are present at the same time. However, even if this is true, the three rounds are not processed at the same time. The later numbers are only considered after the first round has failed. However column 5 line 45 strongly suggests that the three rounds are separate in time in that the three numbers are not even present simultaneously on the computer.

Either way, they are not combined together to form a goal program with constraints etc, contrary to the requirement of the claim.

Even if the above is wrong, Examiner acknowledges that Burchetta does not teach a minimizer that receives a goal program and carries out negotiations using a goal program by considering objective functions levelwise in the respective goal program to approach a mutually compatible outcome by carrying out minimization at a given level to form an offer. In order to find the minimizer, Examiner points to Crawford column 8 lines 14 to 37.

Crawford in column 8 lines 14 to 37 teaches that the two parties enter their separate information on a registration page. Each then receives his own screen for bibliographic information. An assumption is made that the first party provides the basic document. There is some discussion about provision for new users.

There is no discussion in this section of a minimizer. There is no discussion of levels and no discussion of carrying out minimization levelwise.

Examiner claims that Burchetta and Crawford could be combined to teach claim 1. However a combination of Burchetta and Crawford would merely teach a system for negotiation over a single number in three rounds for which individual parties were able to register, and would teach neither a goal program nor level-wise minimization.

All the claims from 2 – 100 are believed to be allowable as being based on an allowable claim 1.

Claim 123 teaches inter alia:

a party goal program unit comprising a party input unit for allowing each party to define *a plurality of goals* in respect of said outcome, and *to associate each of said goals with a respective level of importance*, therefrom to form for each party a goal program,

Burchetta does not teach a party goal program unit since as explained above one party only puts in three numbers in series, and the other party only puts in a single number (and later on if needed another number, and another number). What Burchetta does is *not* to form a plurality of goals with respect to an outcome *but* to form *successive* positions with respect to a *single* issue. Furthermore there is no teaching in Burchetta of associating each goal with a respective level of importance, and to form a goal program from the goal and level of importance. Rather in Burchetta if the first round does not work out then the system moves on to the second round, and if there is no solution then it moves on to a third round.

Even if the above is wrong, Burchetta does not teach

> "said party input unit being operable to obtain a target value and upper and lower bounds relating to at least one of said goals, said party goal program unit being operable to use said upper and lower bounds to express deviations from said target values in relative terms, thereby to render deviations from different goals' targets comparable."

The information regarding the claim that is missing from Burchetta is not supplied by Crawford.

Regarding claim 138:

Burchetta does not teach the goal program of claim 138, or weights, deviations or a plurality of goals either.

Furthermore, regarding the range of indifference taught by the claim, although it is true that Burchetta does in some cases regard the difference between offer and

counterclaim as a matter of indifference and select the median, he does not do this on the basis of another goal, contrary to the requirement of the minimizer of claim 138.

The information missing from claim 138 is not taught in Crawford either.

Regarding claim 146:

Burchetta does not teach a goal program according to claim 146 because he does not teach a trade off line of any kind. Indeed Burchetta never mentions the concept of trade off because he never teaches two goals at the same time between which trading off could occur. Burchetta is inherently not multi-dimensional.

The negotiatior of claim 146 is also not taught in Burchetta since it too includes the trade off line which is not taught in Burchetta.

Furthermore, Examiner in his rejection of claim 146 together with claim 1, never actually alleges that a trade off line is taught in Burchetta or in Crawford. It is therefore noted with respect that any further rejection of claim 146 will be a new rejection.

Regarding claim 158, again Burchetta fails to teach the goal program of claim 158 which contains the following features (emphasis added):

a party goal program unit comprising a party input unit configured for allowing a party to define at least one *single dimension two-point goal constraint* in respect of said outcome, and to *associate said goal constraint with an upper point of preference, and a lower point of preference, a first weighting value for deviations below said lower point of preference, and a second weighting value for deviations above said upper point of preference, said goal program unit being operable to provide weightings to a region included between said points of preference by assigning said first weighting value below said upper point of preference and said second weighting value above said lower point of preference and defining an overall weighting within said region as a minimum of said weighting values,*

Burchetta's single numbers do not constitute a single dimension two point goal constraint, and at no point are they provided with weightings.

The negotiator of claim 158 is likewise not taught in Burchetta since it too incorporates the above features.

The missing features of claim 158 are likewise not to be found in Crawford.

Burchetta fails to teach the goal program unit of claim 167.

Claim 167 teaches (emphasis added):

a party goal program unit comprising a party input unit operable to permit parties to define *goal constraints comprising pairwise variable trade-offs having at*

least two points and a trade-off function for deviating from a line drawn between said points, wherein said party goal program unit is operable to *prevent inconsistent inclination values to be defined within the platform by preventing said party input unit from accepting more than one trade-off that refers directly or indirectly to a same pair of variables,*

Not only do Burchetta's single numbers fail to constitute pairwise variable trade-offs having at least two points and a trade off function etc. but also Burchetta teaches no mechanism to prevent inconsistent inclination values, or indeed to prevent anything. One simply inserts numbers. Burchetta is simply confined to a single variable.

The features missing in Burchetta are not to be found in Crawford.

Regarding claim 168,

Burchetta fails to teach the goal program unit of claim 168.

Claim 168 teaches (emphasis added)

> a party goal program unit comprising a party input unit operable to permit parties to define *constraints relating to pairwise trade-offs having at least two points* and a *trade-off function for deviations from a line extending therebetween*, wherein said party goal program unit is *operable to warn users of inconsistent inclination values* by outputting a warning whenever a trade-off being entered refers directly or indirectly to a pair of variables already included in a previously entered trade-off,

Burchetta's single numbers do not constitute pairwise trade-offs having at least two points, and he has no warning mechanism.

Likewise Burchetta fails to teach the negotiating unit since it too incorporates the above-pointed out missing features.

The features missing from Burchetta are likewise missing from Crawford.

Regarding claim 169,

Burchetta fails to teach the goal program unit of claim 169.

Claim 169 teaches (emphasis added)

> a party goal program unit comprising a party input unit for allowing a party to define at least one objective function in respect of said outcome, and to associate said *objective function* with a series of *variables* and *disjunctive constraints*, said goal program unit comprising a disjunctive constraint processor for translating a disjunctive expression into at least one linear conjunctive expression,

Burchetta's single numbers do not constitute objective functions and are not associated with variables or disjunctive constraints.

Likewise Burchetta fails to teach the negotiating unit since it too incorporates the above-pointed out missing features.

The features missing from Burchetta are likewise missing from Crawford.

Regarding claim 199,

Burchetta fails to teach the goal program unit of claim 199.

Claim199 teaches (emphasis added)

> a party goal program unit for defining goal programs in respect of an outcome, the goal program unit comprising a party input unit for allowing a party to input data relating to said goal program, said goal program unit being operable *to translate said values into objective functions and constraints on said objective functions* within said goal program,

Burchetta's single numbers do not constitute data that could be translated into objective functions and constraints. Even if that is wrong there is no teaching that there is a goal program unit which is operable to carry out such a translation.

Likewise Burchetta fails to teach the negotiating unit since it too incorporates the above-pointed out missing features.

The features missing from Burchetta are likewise missing from Crawford.

Regarding claim 215,

Burchetta fails to teach the goal program unit of claim 215.

Claim 215 teaches (emphasis added)

> a party goal program unit for defining goal programs in respect of an outcome, the goal program unit comprising a party input unit for allowing a party to input values, said goal program unit being *operable to translate said values into objective functions and constraints on said objective functions within said goal program,*

Burchetta does not teach a unit which is operable to do much more than match single numbers. It certainly cannot translate numbers into objective functions and constraints on those objective functions.

Likewise Burchetta fails to teach the negotiating unit since it too incorporates the above-pointed out missing features.

The features missing from Burchetta are likewise missing from Crawford.

Regarding claim 225,

Burchetta fails to teach the goal program unit of claim 225.

Claim 225 teaches (emphasis added)

> a goal program input unit for receiving a local party's goal program and an opponent's goal program to be unified, said goal programs comprising *objective functions associated with constraints and being arranged in successive levels,*

Burchetta's single numbers do not constitute objective functions associated with constraints and certainly not such *functions with constraints* arranged in successive levels.

Likewise Burchetta fails to teach the negotiating unit since it too incorporates the above-pointed out missing features.

The features missing from Burchetta are likewise missing from Crawford.

Regarding claim 235,

Burchetta fails to teach the goal program unit of claim 235.

Claim 235 teaches (emphasis added)

> a goal program input unit for receiving a local party's goal program, said goal programs comprising *objective functions associated with constraints and being arranged in levels,*

Burchetta's single numbers do not constitute objective functions associated with constraints and arranged in levels.

Burchetta fails to teach the stay close processor of claim 235, or even anything vaguely resembling it.

Burchetta further fails to teach the optimizer of claim 235 since said optimizer incorporates the missing features listed above.

Likewise Burchetta fails to teach the negotiating unit since it too incorporates the above-pointed out missing features.

The features missing from Burchetta are likewise missing from Crawford.

Regarding claim 251,

Burchetta fails to teach the resource negotiator unit of claim 251.

Claim 251 teaches (emphasis added)

> A resource negotiator for making successive offers for usage of a *resource* with at least one remote party based on a goal program of a local party, the goal program comprising a plurality of objective functions, at least one of said objective functions having a goal associated with a target value, an

upper bound, a lower bound and at least one constraint, the resource negotiator comprising:

an input for receiving data from said remote party,

a minimizer for producing *successively worsening minimizations of said goal program*, and

an offer formulator, associated with said minimizer, *for formulating said minimizations into offers for resource usage for sending to said remote party.*

Burchetta fails to teach negotiation for usage of a resource of a remote party based on a goal program of a local party. There is no remote resource and neither is this alleged by the Examiner.

Likewise Burchetta fails to teach the minimizer unit and successively worsening minimizations.

Likewise Burchetta fails to teach the offer formulator since there is nothing in the negotiations of Burchetta between insurer and claimant to suggest resource usage.

The features missing from Burchetta are likewise missing from Crawford.

Regarding claim 266,

Burchetta fails to teach the resource negotiator unit of claim 266.

Claim 266 teaches (emphasis added)

A resource negotiator for negotiating for *usage of a resource* with a *plurality* of remote parties based on a goal program of a local party, the *goal program comprising a plurality of objective functions with associated goal constraints,* at least *one of said goal constraints having at least one variable with an upper bound, and a lower bound,* the resource negotiator comprising:

an input for receiving data from said remote parties,

an objective function minimizer for *calculating a value required to be provided by remote parties of said at least one objective function*, and

an offer acceptor, associated with said minimizer, for receiving offers from said remote parties, *comparing said calculation with said offers and for accepting one of said offers based on said minimizations.*

Burchetta's does not teach resource negotiation, certainly not resource negotiation between a plurality of remote parties.

Likewise Burchetta's single numbers and matching fails to teach objective function minimization. He likewise fails to teach the offer acceptor since he has no

calculations of the kind specified to compare multiple offers. Burchetta simply compares the offers with straight numbers provided by the other party.

The features missing from Burchetta are likewise missing from Crawford.

Regarding claim 276,

Burchetta fails to teach the resource negotiator unit of claim 276.

Claim 276 teaches (emphasis added)

A resource negotiator for negotiating *for usage of a resource* with a *plurality* of remote parties based on a goal program of a local party, the goal program *comprising at least one objective function having at least one goal comprising a variable assignable with at least one of an upper bound, and a lower bound*, the resource negotiator comprising:

an *active bid monitor* for monitoring remote parties remaining in said negotiating,

a r*esource quality increaser* for *successively decreasing a value of said at least one predetermined objective function,*

an *offer acceptor*, associated with said active bid monitor and with said quality increaser, *for ending said negotiation at a time at which only a predetermined number of remote parties remains active, and at a corresponding value of said at least one predetermined objective function, said offer acceptor being operable to deem said negotiation successful if said corresponding value is within any assigned bounds, said predetermined number being related to a number of available resources.*

Burchetta does not negotiate resources, does not monitor active bidders, does not have anything even remotely resembling a resource quality increaser, or an offer acceptor to end negotiations when the number of participants falls.

The features missing from Burchetta are likewise missing from Crawford.

Regarding claim 285,

Burchetta fails to teach the goal program unit of claim 285.

Claim 285 teaches (emphasis added)

A platform for performing *ranking between database entries,* each of said entries comprising a *series of values arranged in fields*, the platform comprising:

a goal program unit for taking data from a user and defining therewith a *goal program, variables thereof being related to said fields*, and

a *ranking unit for performing ranking amongst said entries in accordance with said goal program.*

Burchetta contains no hint whatsoever of ranking database entries. It contains no hint of making a goal program out of database fields and it contains no hint of ranking the database entries according to the fields.

The features missing from Burchetta are likewise missing from Crawford.

Regarding claim 301,

Burchetta fails to teach the goal program unit or any of the other units of claim 301.

Claim 301 teaches (emphasis added)

A platform for supporting negotiation between parties to achieve an outcome, the platform comprising:

an input for receiving *an overall deal request from a first party relating to multiple items*, and *availability data from at least one second party relating to available items*,

a deal partitioner for partitioning of said deal request into a plurality of sub-deals each corresponding to at least one item of said sub-deal request that is to be obtained from a single second party, such that said deal request overall is applicable to one or more second parties, and

a *deal minimizer* for selecting *second parties for each sub-deal such as to minimize a cost parameter for said first buyer for said deal request.*

Burchettal fails to teach deal requests relating to multiple items, and certainly fails to teach availability of the items. Burchetta fails to even hint at deal partitioning. Burchetta likewise fails to teach minimization of the sub deals since he never created any sub-deals in the first place.

The features missing from Burchetta are likewise missing from Crawford.

Thus all of the pending claims are novel and inventive in light of the citations.

New claim 337 is added. New claim 337 replaces the previous limitation of "configured to" with the new limitation of "structured for" in order to better meet the Examiner's requirement for a structural limitation. MPEP 2106C provides "Language that suggests or makes optional but does not require steps to be performed *or does not limit a claim to a particular structure* does not limit the scope of a claim or claim limitation (emphasis added). The phrase "structured to" explicitly and literally limits the claim to a specific structure.

If the Examiner finds the "structured to" language acceptable then applicant is happy to incorporate the language into the other claims.

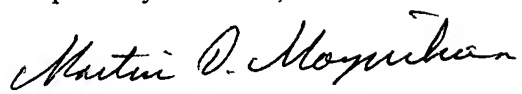
If the Examiner accepts the overwhelming arguments given above regarding "configured to" and allow the earlier claims then the applicant is happy to cancel claim 337 as it would be rendered redundant.

All of the matters raised by the Examiner have been dealt with and are believed to have been overcome.

In view of the foregoing, it is respectfully submitted that all the claims now pending in the application are allowable.

An early Notice of Allowance is therefore respectfully requested.

Respectfully submitted,



Martin D. Moynihan
Registration No. 40,338

Date: December 1, 2008

Enclosure:

- Petition for Extension (Three Months)
- Request for Continued Examination (RCE)